

REMARKS

Claims 1-15 are pending in this application. Attached hereto is a complete listing of all claims in the application, with their current status listed parenthetically. By this Response, claims 1 and 6 have been amended, and are presented with markings to indicate their current amendments. Three (3) paragraphs of the specification have been amended, and are also presented with markings to indicate their current amendments.

In the Drawings

In paragraph 1 of the Office Action, the Examiner objects to the drawings under 37 CFR 1.83(a). Specifically, the Examiner states that "the multiplexer/demultiplexer configured to distribute a plurality of incoming signals must be shown or the feature(s) cancelled from the claim(s)."

In response, Applicant has amended independent claims 1 and 6 and removed "demultiplexer" and its function of "distribute[ing] a plurality of incoming ultra wide band pulses." However, the multiplexer 190 is illustrated in FIG. 7, and discussed in the originally-filed specification, on pages 30, 31 and 32. Applicant submits amended specification paragraphs eliminating the "demultiplexer" from the specification. Applicant requests that these amendments be accepted by the Examiner, and that the objection be withdrawn with respect to the drawings.

Rejection Under 35 U.S.C. § 112

The rejection of claims 1 and 6 as indefinite, as discussed in paragraph 2 of the Office Action is now moot, as "demultiplexer" has been removed from the claims and the specification.

Rejection Under 35 U.S.C. § 102

Pending claims 1-10 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent 6,603,818 ("Dress"). As discussed below, Applicant respectfully traverses this rejection.

A. The Law of Anticipation and Enabling Prior Art References

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. M.P.E.P. § 2131. The identical invention must be shown in as complete detail as is contained in the claim. *Id.*

However, Applicant submits that independent claims 1 and 6 have elements that cannot be found, either expressly or inherently, in Dress.

For example, Applicant's claim 1 recites, in part:

". . .at least one frequency divider coupled to said clock synchronization unit, said frequency divider configured to reduce said clock speed to generate a desired pulse repetition frequency. . ."

And Applicant's claim 6 recites, in part:

". . .at least one frequency divider communicating with the clock synchronization unit, the frequency divider structured to generate a pulse repetition frequency. . ."

Dress contains no teaching or suggestion of a frequency divider that either reduces clock speed to generate a desired pulse repetition frequency, or a frequency divider that generates a pulse repetition frequency, as recited in Applicant's claims.

Instead, Dress teaches a master clock oscillator 1001 that generates timing signals that control a trigger generator 1002 that drives the 7 parallel derivative pulse generators 1003 through the programmable delay generator 1005 (FIG. 10 and col. 8, lines 57-64).

Put clearly, Dress uses a master clock to generate timing signals that are used to generate pulses. There is no discussion of "reducing a clock speed" nor is there any discussion of using a "frequency divider to generate a pulse repetition frequency."

In fact, Dress contains no teaching or suggestion of "reducing a clock speed" or of using a "frequency divider to generate a pulse repetition frequency."

Accordingly, Applicant respectfully submits that Dress cannot anticipate independent claims 1 and 6 and respectfully requests the Examiner to reconsider and withdraw this rejection. Claims 2-5 and 7-10 depend from claims 1 and 6, respectively, and accordingly it is respectfully submitted that the rejection of claims 2-5 and 7-10 has been traversed by virtue of their dependency from claims 1 and 6.

Rejection Under 35 U.S.C. § 103(a)

In paragraph 4 of the Office Action, claims 11-15 stand rejected as unpatentable under 35 U.S.C. § 103(a) over U.S. patent 6,735,238 ("McCorkle") in view of U.S. Patent 6,735,734 ("Liebetreu").

Applicant respectfully traverses this rejection because the McCorkle reference cannot be considered as prior art for making a *prima facie* case of unpatentability. Specifically, the McCorkle reference indicates a file date of October 10, 2000. Applicant's application claims priority to a co-pending application filed June 21, 2000 (serial no. 09/599,969). Applicant's priority date is prior to the McCorkle file date.

McCorkle references two provisional applications, one filed on May 26, 2000, and another filed July 10, 2000, but makes no clear priority claim to either provisional application.

"Before answering Graham's 'content' inquiry, it must be known whether a patent or publication is in the prior art under 35 U.S.C. § 102" (M.P.E.P. 2141.01).

"However, the subject matter of an abandoned application, including both provisional and nonprovisional applications, referred to in a prior art U.S. patent may be relied on in a 35 U.S.C. § 102(e) rejection based on that patent if the disclosure of the abandoned application is actually included or incorporated by reference in the patent" (M.P.E.P. 2127) [emphasis added].

Thus, McCorkle's filing date of October 10, 2000 eliminates it as a 35 U.S.C. § 102(e) reference. But, the subject matter of the May 26, 2000, provisional application may support a 35 U.S.C. § 102(e) rejection if the subject matter actually can support a 35 U.S.C. § 102(e) rejection, and if it is actually included or incorporated by reference in the patent.

McCorkle does incorporate by reference the May 26, 2000 provisional application (col. 1, lines 17-20 and lines 66-67), but does not make a claim of priority to it.

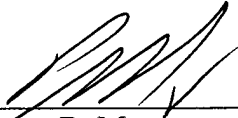
Therefore, McCorkle is not prior art, and Applicant respectfully requests evidence of a clear claim of priority to the May 26, 2000 provisional application, and a copy of the May 26, 2000 provisional application, so that Applicant may determine if any of its teachings may be used as prior art. Moreover, Applicant requests McCorkle's prosecution history, to determine if any portion of the May 26, 2000, provisional application was cancelled. "Portions of the patent application which were cancelled are not part of the patent or application publication and thus cannot be relied on in a 35 U.S.C. § 102(e) rejection over the issued patent or application publication" (M.P.E.P. 2136.02).

Conclusion

Applicant believes that this Response has addressed all items in the Office Action and now places the application in condition for allowance. Accordingly, favorable reconsideration and allowance of claims 1-15 at an early date is solicited. No fee is believed due with this response. However, the Commissioner is authorized to charge any fee required to our Deposit Account No. 50-3143, in the name of Pulse-Link, Inc. Should any issues remain unresolved, the Examiner is invited to telephone the undersigned.

Respectfully submitted,

2.15.05
Date



Peter R. Martinez
Attorney for Applicant(s)
Reg. No. 42,845

c/o PULSE-LINK, INC.
1969 Kellogg Avenue
Carlsbad, California 92008
Telephone No.: (760) 607-0844